

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-62728

DaANITA MARIE PARTEE, *pro se*,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S SECOND MOTION TO
REINSTATE BANKRUPTCY CASE (DOCKET # 23)**

This case comes before the Court on Debtor's motion entitled "Motion to Reconsider Order Denying Motion For Reconsideration," filed on August 20, 2009 (Docket # 23), which the Court construes as a *second* motion for reconsideration of, and for relief from, the Court's July 31, 2009 Order dismissing this case (Docket # 16). The Court denied Debtor's first motion for reconsideration (Docket # 20) on August 14, 2009 ("Order Denying Motion For Reconsideration" (Docket # 21)).

The Court has reviewed and considered the motion for reconsideration and finds that the motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(c).

In addition, the Court notes the following. First, the allegations in the motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), Fed.R.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

Second, Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1). That section provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of

filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

The only certificate of credit counseling that Debtor filed with the Court states that Debtor received “an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111” on August 17, 2009. (*See* “Certificate of Counseling,” filed on August 18, 2009 (Docket # 22).) Debtor filed her voluntary petition for relief under Chapter 7 on July 22, 2009. Therefore, Debtor only received credit counseling *after* her petition was filed. With exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain credit counseling *before* filing a bankruptcy petition.

Accordingly,

IT IS ORDERED that Debtor’s “Motion to Reconsider Order Denying Motion For Reconsideration” (Docket # 23), is DENIED. The Court notes that the dismissal of this case does not bar the Debtor from filing a new bankruptcy case.

Signed on September 15, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge